

**REMARKS/ARGUMENTS**

Claims 1 and 5-36 are pending in the application.

Original claims 2-4 are canceled in the present response.

5 Claims 1, 5, and 24-28 have been amended.

The undersigned discussed the substance of the Office Action with Examiner Solola in a telephone conference on January 10, 2005. Applicants thank the examiner for the discussion and further clarification provided concerning 10 the § 102 rejection.

Claims 1-3 and 30 were rejected under 35 U.S.C. § 102(b) over U.S. Patent 5,512,451 (Kricka I), a paper in Proc. of the 9th Intl. Symposium on Biolum. and Chemilum. (1997), pp.470-480 (Kricka II) and another paper in Talanta 15 (1997), 44(6), 1073-9 (Kricka III). Applicants point out for the record that the cited pages in the reference designated Kricka II herein actually spans two consecutive related publications by Kricka. The references disclose the use of aromatic boronic acid and ester compounds as 20 enhancers of the chemiluminescent oxidation of fused aromatic diacyl cyclic hydrazides, such as luminol, by a peroxide and a peroxidase enzyme. Claim 1 as amended no longer reads on any of the compounds in these references by virtue of the new limitation that the claimed compound must 25 be substituted with a dioxetane ring. Also, functional language has been deleted from the claim. It is believed that claims 1 and 30 are patentable over the cited references.

Claims 2 and 3 were rejected under 35 U.S.C. § 112, second paragraph as improperly depending from claim 1. These claims have been canceled.

Claims 1-4 were rejected under 35 U.S.C. § 112, second paragraph over the use of the term "comprises" in claims 1 and 4. The examiner takes the position that this open-ended construction is impermissible in a claim to a compound. Applicants are unaware of any such statute and dispute that such a position is correct as a matter of law. Nonetheless, alternate claim language has been adopted in claim 1 as a result of Applicants desire to narrow the focus of the claim and in the interest of advancing prosecution. As a result claim 4 has been canceled.

Claims 24-28 have been amended to be in independent form. The application now contains a total of seven independent claims.

It is believed that the present response and amendment places all claims in allowable condition. Issuance of a Notice of Allowance is respectfully requested.

20

*Richard Handley*  
\_\_\_\_\_  
Richard S. Handley, Ph.D.  
Registration No. 38,484